

# The Odisha Gazette

EXTRAORDINARY

PUBLISHED BY AUTHORITY

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No. 633, CUTTACK, WEDNESDAY, APRIL 3, 2013 / CHAITRA 13, 1935

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SECRETARIAT  
OF  
THE ODISHA LEGISLATIVE ASSEMBLY

NOTIFICATION

The 3rd April, 2013

No.4966/L.A.,—The following Bill which has been introduced in the Odisha Legislative Assembly on the 3rd April, 2013 is herewith published under Rule 68 of the Rules of Procedure and Conduct of Business in the Odisha Legislative Assembly for general information.

**THE ODISHA RESERVATION OF VACANCIES IN POSTS  
AND SERVICES (FOR SCHEDULED CASTES AND  
SCHEDULED TRIBES) AMENDMENT BILL, 2013**

**A**

**BILL**

FURTHER TO AMEND THE ODISHA RESERVATION OF VACANCIES  
IN POSTS AND SERVICES (FOR SCHEDULED CASTES AND  
SCHEDULED TRIBES) ACT 1975.

**BE** it enacted by the Legislature of the State of Odisha in the Sixty-fourth Year of the Republic of India as follows:—

Short title.

**1.** This Act may be called the Odisha Reservation of Vacancies in Posts and Services (for Scheduled Castes and Scheduled Tribes) Amendment Act, 2013.

Amendment  
of section 1.

**2.** In section 1 of the Odisha Reservation of Vacancies in Posts and (for Scheduled Castes and Scheduled Tribes) Act, 1975 (herein-after referred to as the principal Act), in sub-section (1), the words “vacancies in” shall be omitted.

Odisha Act  
38 of 1975.

Amendment  
of section 2.

**3. In section 2 of the principal Act,—**

(a) clause (a) shall be re-numbered as clause (a-1) and the following clause shall be inserted as clause (a), namely: —

“(a) “appointment” means appointment of a person to any post or service either by direct recruitment or by way of promotion;” and

(b) for clause (g), the following clause shall be substituted, namely: —

“(g) “State” includes the Government, the Legislature of the State of Odisha, local or other authorities within the State which are under the control of the State Government, an aided educational institution as defined in the Odisha Education Act, 1969, institutions, societies and companies of the State Government;

Odisha Act  
15 of 1969.

Amendment  
of section 3.

**4. In section 3 of the principal Act,—**

(a) in clauses (a) and (b), for the word and figure “Class I”, the word and letter “Group A” shall, respectively, be substituted;

(b) in clause (h-1), for the words “of permanent disabled employee who suffer from the disability while in service” the word “employee” shall be substituted; and

(c) after clause (j) the following clause shall be inserted, namely:—

“(k) those which are required to be filled up in a Department or wing or office under the State Government by re-deployment of staff found surplus in another Department or wing or office;”.

Amendment  
of section 4.

**5. In section 4 of the principal Act,—**

(a) in sub-section (1), for the word “vacancies” the word “posts” shall be substituted;

(b) in sub-section (2), —

(i) the words “vacancies in” shall be omitted and for the word “vacancies” the word “posts” shall be substituted;

(ii) in the second proviso, in clause (a), for the words, “sixty-six and two-third”, the words “seventy-five” shall be substituted and

(iii) in clauses (b) and (c), for the word and figure “Class I”, the word and letter “Group A” shall, respectively be substituted;

(c) in sub-section (3), for the words, figure, comma and brackets “Class-II, Class-III (including those specially declared to be Gazetted) and Class-IV”, the words and letters “Group B, Group C and Group D” shall be substituted; and

(d) after sub-section (3), the following sub-section shall be inserted namely:—

“(4) If a candidate belonging to Scheduled Caste or Scheduled Tribe is selected on his own merit without availing reservation benefits while competing with others in case of direct recruitment and secures an appointment, his appointment as such shall be shown against the post left unreserved and his appointment as such shall not be added to the number of employees belonging to Scheduled Caste or Scheduled Tribe, as the case may be, and shall not be taken into consideration for working out the percentage of reservation meant for the Scheduled Caste or Scheduled Tribe, as the case may be:

*Explanation.*— The expression “post left un reserved” means the posts which are indicated as un reserved in the model roster prepared in accordance with the provisions of section 5”.

Amendment  
of section 5.

**6. In section 5 of the principal Act,—**

(a) in sub-section (1), for the words “number of vacancies”, the words “number of posts” shall be substituted;

(b) in sub-section (2), for the words “prescribed form” the words “prescribed manner” shall be substituted; and

(c) in sub-section (3),—

(i) for the words “reserved vacancies”, the words “posts reserved” shall be substituted; and

(ii) the following proviso shall be inserted namely: —

“Provided that no such rosters shall operate after the required percentage of the reservation is achieved in a particular grade or cadre and the vacancies in the posts occurring thereafter in that particular grade or cadre, by retirement, resignation, promotion or otherwise of the persons holding such posts belonging to the unreserved or reserved category, as the case may be, shall be filled up in accordance with the provisions of this Act, by appointment of persons belonging to the respective category so that the prescribed percentage of reservation in the grade or cadre is maintained”.

*Explanation.*— For removal of doubt, it is hereby declared that where any reserved category person is appointed to a post on his own merit, on retirement, resignation, promotion or otherwise of such person, that vacant post shall be filled up by the person belonging to unreserved category.

Omission of  
section 6.

**7. In the principal Act, section 6 shall be omitted.**

Amendment  
of section 7.

**8. In the principal Act, for section 7, the following section shall be substituted, namely: —**

7. (1) In case of direct recruitment, if in any recruitment year, the number of successful candidates belonging to Scheduled Castes and Scheduled Tribes is less than the number of posts reserved for them or such candidates are

not available even after making special recruitment drive, those posts are to be left unfilled for a maximum period of three subsequent recruitment years if candidates belonging to reserved category are not available during such period and thereafter if such posts still remain unfilled, those shall be filled up by candidates belonging to unreserved category after dereserving the vacancies in the prescribed manner:

Provided that the above principle of dereservation shall not be applicable to the posts belonging to Group D and such Group D posts may remain vacant till those are filled up by successful reserved category candidates:

Provided further that in case of direct recruitment to the Group A posts, if the required number of successful candidates belonging to reserved category is less than the number of posts reserved for them or such candidates are not available even after making special recruitment drive, such posts shall be filled up by candidates belonging to unreserved category after dereserving the vacancies in the prescribed manner.

(2) In case of promotion, if required number of successful candidates belonging to Scheduled Castes and Scheduled Tribes is not available during selection or if the number of such candidates is less than the number of posts reserved for them, the vacancies in such posts shall be filled up by candidates belonging to unreserved category, after dereserving the same in accordance with the procedure, as may be prescribed.

(3) The vacancies in the posts filled up by candidates belonging to unreserved category under sub-section (1) or sub-section (2), as the case may be, after being dereserved, shall be filled up by respective reserved category candidates in future when candidates belonging to reserved category are available on selection”.

Amendment  
of section 8.

**9.** In the principal Act, section 8 shall be renumbered as sub-section (1) thereof and after sub-section (1) as so renumbered, the following sub-section shall be inserted, namely:—

“(2) In case of promotion within Group D, from Group D to Group C and within Group C, the qualification regarding experience, if any, may be relaxed upto two years when the required qualification for being eligible for promotion is five years or more and may be relaxed upto one year when the required qualification for being eligible for promotion is two years or more but less than five years”.

Amendment  
of section 9.

**10.** In the principal Act, in section 9,—

(a) in sub-section (3), for the words and figures “Class III and Class IV”, the words and letters “Group C and Group D” shall be substituted;

(b) in sub-section (4), for the words “fresh recruitment” the words “special recruitment drive” shall be substituted; and

(c) for sub-section (5), the following sub-section shall be substituted, namely: —

“ (5) if after the special recruitment drive, candidates belonging to the Scheduled Castes or the Scheduled Tribes are still not available or if the number of selected candidates is less than the number of posts reserved for them, the procedure laid down under sub-section (1) of section 7 shall be followed”.

Omission of  
section 10.

**11.** In the principal Act, section 10 shall be omitted.

Amendment  
of  
section 11-A.

**12.** In the principal Act, in section 11-A for sub-section (2), the following sub-section shall be substituted, namely:—

“(2) There shall be a separate zone of consideration for Scheduled Caste and Scheduled Tribe candidates in respect of promotion from Group D to Group C and within Group C posts and there shall be common zone of consideration in respect of promotion in other cases”.

Amendment  
of section 14.

**13.** In the principal Act, in section 14, for the words “Harijan and Tribal Welfare Department” wherever they occur, the words the “Department looking after the welfare of Scheduled Castes and Scheduled Tribes in the State” shall be substituted.

Amendment  
of section 15.

**14.** In the principal Act, in section 15, for the words “Minister, Harijan and Tribal Welfare”, the words “Minister, in charge of the Department looking after the welfare of Scheduled Castes and Scheduled Tribes in the State” shall be substituted and for the words “Harijan and Tribal Welfare Department” the words “Department looking after the welfare of Scheduled Castes and Scheduled Tribes in the State” shall be substituted.

## STATEMENT OF OBJECTS AND REASONS

The Odisha Reservation of Vacancies in Posts and Services (for Scheduled Castes and Scheduled Tribes) Act, 1975 has been enacted with a view to secure adequate representation of Scheduled Castes and Scheduled Tribes in posts and Services under the State Government. In the meanwhile Hon'ble Supreme Court in the cases of Indra Sawhney, R.K. Sabharwal, Ajit Singh Januja-I, Ajit Singh Januja-II and M.Nagraj has delivered landmark judgments on reservation policy. As judgment of the Hon'ble Supreme Court are regarded as Law of the Land, it is necessary to amend different sections for which the existing provisions of the ORV Act have been examined, reviewed and scrutinized for removal of inadequacies to make the Act progressive for the society & to ensure proper representation in favour of the S.T. & S.C. Community.

The Bill seeks to achieve the above objectives.

**LAL BIHARI HIMIRIKA**

***Member-in-charge***

A. K. SARANGI

Secretary

Odisha Legislative Assembly